

New Maritime Developments Update

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Congress Approves \$20 Million for Additional Port Security Grants

New Development

On April 12, 2003, the House and Senate passed legislation appropriating an additional \$20 million to the Transportation Security Administration ("TSA"), now within the Department of Homeland Security, for grants to assist in the implementation of port security measures authorized by the Maritime Transportation Security Act of 2002. This appropriation was included in the Emergency Wartime

Supplemental Appropriations Act of 2003 (H.R. 1559), which was signed into law on April 16, 2003 (P.L. 108-11). In addition, the conference report to H.R. 1559 (House Report 108-76) directs the TSA to issue grants for the balance of previous appropriations (approximately \$105 million) no later than 60 days after enactment.

Background

Congress previously appropriated \$198.3 million (in two separate pieces of legislation) to the TSA for port security grants for fiscal year 2002. To date, the TSA has issued grants to 51 ports totaling almost \$93 million.

The grants are allocated among port authorities, facility operators, and state and local agencies required to provide security services, and help fund certain costs of funding port security vulnerabilities and ensuring compliance with port

security plans. The grants for implementing port security plans may not exceed 75% of the cost of the eligible projects of more than \$25,000 unless the TSA determines that a higher Federal contribution is necessary. Federal match restrictions do not apply to projects that cost \$25,000 or less.

Eligibility for the grant program is limited to "critical national seaports and terminals." Two categories of projects are eligible for funding: (1) security assessments and mitigation strategies and (2) enhanced facility and operational security. To be considered a "critical national seaport or terminal," a port or terminal applicant must fall into one of the following categories:

- (1) A port designated as one of 13 "strategic ports" (as designated by a Maritime Administration port planning order), or a terminal located in that port;

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- (2) A port designated as a Controlled Port (i.e., ports that have access controls for vessels from certain countries due to national security issues): New London/Groton, CT; Portsmouth, NH (including Kittery, Maine and Dover, New Hampshire on the Piscataqua River); Hampton Roads, VA (including Norfolk, Newport News, Jamestown, Yorktown, and Portsmouth, VA); Charleston, SC; Kings Bay, GA; Port Canaveral, FL; Panama City, FL; Pensacola, FL; Port St. Joe, FL; Port Hueneme, CA; San Diego, CA; and Honolulu, HI; or a terminal located in a Controlled Port;
- (3) A nationally important economic port responsible for a large volume of cargo movement or for movement of products that are

vital to U.S. economic interests as required for national security, or a terminal located within that port; or

- (4) A port or terminal responsible for the movement of a high volume of passengers.

The types of costs funded by these grants include (1) salaries, benefits, and other forms of compensation for security personnel required by the Coast Guard, (2) the acquisition, operation, and maintenance of security equipment and facilities, including equipment and facilities for monitoring and surveillance, (3) screening equipment to detect weapons of mass destruction, and (4) port vulnerability assessments.

Conclusion

The additional money appropriated by Congress and the directive to the TSA to award grants for unspent monies provide opportunities to ports and

terminals to receive assistance to fund critical security-related assessments and improvements.

The purpose of the New Maritime Developments Advisory is to identify select developments that may be of interest to readers. The information contained herein is abridged and summarized from various sources, the accuracy and completeness of which cannot be assured. The Advisory should not be construed as legal advice or opinion, and is not a substitute for the advice of counsel. Please contact Jon Waldron (Waldron@BlankRome.com), Lara Mathews (Mathews-L@BlankRome.com), or Jim Drewry (Drewry@BlankRome.com) at (202) 944-3000 if you have questions or desire assistance. Additional information on BlankRome may be found on our website www.BlankRome.com. ■

Office Locations

1620 Pond Road	Allentown, PA 18104	(610) 706-4300
250 W. Pratt Street	Baltimore, MD 21201	(410) 659-1400
1200 N. Federal Highway	Boca Raton, FL 33432	(561) 417-8100
210 Lake Drive East	Cherry Hill, NJ 08002	(856) 779-3600
201 East Fifth Street	Cincinnati, OH 45202	(513) 362-8700
1400 N. Providence Road	Media, PA 19063	(610) 891-7800
405 Lexington Avenue	New York, NY 10174-0208	(212) 885-5000
One Logan Square	Philadelphia, PA 19103-6998	(215) 569-5500
200 W. State Street	Trenton, NJ 08608	(609) 278-2320
600 New Hampshire Avenue, N.W.	Washington, DC 20037	(202) 944-3000
900 17th Street, N.W.	Washington, DC 20006	(202) 530-7400
1201 Market Street	Wilmington, DE 19801	(302) 425-6400

Maritime Group Members

Jonathan K. Waldron	202.944.3056
Alex Blanton	202.944.3041
Joan M. Bondareff	202.844.3580
James S.W. Drewry	202.944.3042
Thomas M. Dyer	202.944.3054
James B. Ellis	202.944.3051
Brett M. Esber	202.944.3059
Jeanne M. Grasso	202.944.3558
Lara B. Mathews	202.944.3044
J. Christopher Naftzger	202.944.3565
R. Anthony Salgado	202.944.3055
William L. Schachte	202.944.3000
Duncan C. Smith III	202.944.2668
Sidney A. Wallace	202.944.2662